

**United States District Court  
Delaware Division**

**In RE: Keith King Propria Persona  
Ex Rel and Next Friend Regina Boston,**

**Petitioner,**

**Kyle Payne,  
Sheriff Irwin Carmichael,**

## Respondents.

17-798

Case No.: \_\_\_\_\_

**PETITION FOR GREAT WRIT  
OF HABEAS CORPUS  
Pursuant to 28 U.S.C. 2254  
BY KEITH KING IN STATE CUSTODY**

STATE OF DELAWARE

COUNTY OF NEW CASTLE

I, Keith King, have personal knowledge of the matters stated herein, am over the age of majority, and hereby asseverate understanding the liabilities presented in Briscoe v LaHue, 460 US 325. Petitioner is preparing this Petition without counsel and is willing and able to show why he is unlawfully being held and restrained of his liberties by the Respondent herein.

Keith King, IN GOOD FAITH and with NO INTENT to harass, delay or deceive, do hereby and herein petitions this court for the Great Writ of Habeas Corpus, as a matter of right, as declared in North Carolina General Statute Article 3 § 17-1. Keith King is unlawfully deprived of his liberty by Mecklenburg County assistant district attorney Kyle Payne upon the mere speculation of alleged misdemeanor and alleged felony indictments since January 9, 2015. Pursuant to Article 3 § 17- 4. Keith King is not committed, imprisoned, detained, confined or restrained by virtue of any final judgment or decree of any competent tribunal of civil or criminal jurisdiction, nor by

# PETITION FOR WRIT OF HABEAS CORPUS

Page 1 of 10

indictments since  
ing is not committed,  
of any final judgment  
jurisdiction, nor by  
of 10 U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

virtue of an execution issued upon such judgment or decree, in this *sui generis* matter of substance over form.

1) Keith King does not know nor has he been told the Nature and Cause of any action against him. Therefore, Keith King is rebutting any presumptions. It is presumed that Mecklenburg County Superior Court is operating in a criminal action against Keith King. Therefore, Pursuant to NORTH CAROLINA Code of Criminal Procedure Article 3 § 17-6, the word 'Applicant', as used in this chapter, refers to the person for whose relief the Writ is asked, though the petition may be signed and presented by any other person," and Article 3 § 17-5 **"Application for the writ may be made either by the party for whose relief it is intended or by any person in his behalf"**.

2) Keith King does not know nor has he been told the Nature and Cause of any action against him. Therefore, Keith King is rebutting any presumptions. It is presumed that Mecklenburg County Superior Court is operating in a Criminal action against Keith King. Therefore, Pursuant to NORTH CAROLINA Code of Criminal Procedure Article 3 § 17-9, the Writ of Habeas Corpus shall be granted without delay by the judge or any court receiving the application. Furthermore, in this case failure to take action within seventy-two hours will be quite appropriately deemed a DENIAL BY DERELICTION OF DUTY.

3) A Maxim of law states, "The presumption is always in favor of the one who denies; not the one who asserts". It is Keith King's belief that **no presumption of guilt arises** from the mere fact that a criminal accusation has been made before a competent authority.

4) Keith King does not know nor has he been told the Nature and Cause of any action against him. Therefore, Keith King is rebutting any presumptions. It is presumed that Mecklenburg County Superior Court is operating in a Criminal action against Keith King. Therefore, Pursuant to NORTH CAROLINA Code of Criminal Procedure Article 3 § 17-1, Keith King is entitled to the Writ of Habeas Corpus since there is not sufficient cause for requiring incarceration instead of bail and/or the bail required is excessive in this *sui generis* case. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful, because of non-disclosure of the requirements of the prosecutor to establish subject matter jurisdiction, other than an unsubstantiated statement.

5) Keith King does not know nor has he been told the Nature and Cause of any action against him. Therefore, Keith King is rebutting any presumptions. It is presumed that Mecklenburg County Superior Court is operating in a Criminal action against Keith King. Therefore, Pursuant to NORTH CAROLINA Code of Criminal Procedure Article 6 § 17-32, the judge or court before whom a person is brought by Writ of Habeas Corpus shall examine the Writ and the papers attached to it; and if no legal cause be shown for the imprisonment or restraint, or if it appears that the imprisonment or restraint though at first legal, cannot for any cause be lawfully prolonged, the victim shall be discharged.

## **IGNORANCE OF THE LAW IS NO EXCUSE**

Habeas corpus is necessary to address the issues including but not limited to the following:

### **OFFER OF PROOF: UNLAWFUL INCARCERATION BY DENIAL OF DUE PROCESS**

1. Keith King does not know nor has he been told the Nature and Cause of any action against him. Therefore, Keith King is rebutting any presumptions. Therefore, it is presumed that Mecklenburg County Superior Court is operating in a Criminal action against Keith King. Therefore, Keith King is DENIED DUE PROCESS OF LAW AND UNLAWFULLY INCARCERATED considering that North Carolina's Code of Criminal Procedure ("North Carolina Statute") at Article G.S. 15A-534(c) requires a showing of a history of flight from justice. This does not exist as it relates this Petitioner, Keith King. A proper evaluation of the substantive evidence considered by any competent Magistrate will find a lack of sufficiency to support arrest or commitment and the evidence will go to show NO INJURED PARTY and NO WITNESS TO TESTIFY in matter lacking mens rea and actus reus.
2. Mecklenburg County Sheriff, Irwin Carmichael and the assistant district attorney, Kyle Payne, (Prosecutor) failed and neglected to obey their own North Carolina Statutes, by arresting and detaining or causing to be arrested and detained, Keith King under color of law, and are now engaged in his UNLAWFUL INCARCERATION, and has

already been DENIED DUE PROCESS OF LAW!!

3. Once due process is denied all jurisdiction ceases as per 5 USC §§ 556(d), 557, 706. Judges have no immunity as per *Owen v. City of Independence*, 100 S Ct. 1398; *Maine v. Thiboutot*, 100 S. Ct. 2502; and *Hafer v. Melo*, 502 U.S. 21; judges are deemed to know the law and sworn to uphold the law. Judges cannot claim to act in good faith in willful deprivation of law. They certainly cannot plead ignorance of the law. Therefore, there is no judicial immunity in matters of rights secured by the Constitution of the United States of America as per Title 42 USC §1983, Federal Tort Claims Act exception for unconstitutional acts, 18 USC §1962 RICO Act, and 18 USC §§ 241/242.

**STATEMENT OF FACTS SHOWING PETITIONER HAS EXHAUSTED  
ALL ADMINISTRATIVE REMEDIES**

1. As is shown by the following facts, the Petitioner has exhausted all administrative remedies available for the protection of the Petitioner's inherent rights regarding the Respondent's restraint of the Petitioner's Liberties:
2. On January 9, 2015, Petitioner was arrested without a warrant but on a "magistrate's order". See a copy of order attached hereto and incorporated herein by reference as **Exhibit 7**, which Petitioner has been told serves as a warrant.
3. Since the Petitioner's incarceration no such warrant has issued.
4. On January 26, 2015 Bills of Indictment See copies attached hereto and incorporated herein by reference as **Exhibit 8**, were issued in case nos. 15CRS201075, 15CRS201076, and 15CRS201077 in the Mecklenburg County Superior Court, captioned as The State of North Carolina vs KING, KEITH Defendant [NOM DE GUERRE].
5. The indictments described in the preceding fact were not signed nor bears a signature of a recognizable or authorized person to represent the State of North Carolina in court.
6. No judgment entries have been filed in Case Nos. 15CRS201075, 15CRS201076, and 15CRS201077 in the Mecklenburg County Superior Court.

7. On April 13, 2016 Petitioner filed and served upon Respondent an Affidavit of Truth. See a copy of said Affidavit attached hereto and incorporated herein as if fully rewritten, attached as Ex **Exhibit "1"**.
8. On or about April 26, 2016 Petitioner filed and served upon Respondent a Notice of Default and Three-Day Opportunity to Cure. See a copy of said Notice attached hereto and incorporated herein by reference as **Exhibit "2"**.
9. On May 2, 2016 Petitioner filed and served upon Respondent a Final Notice of Default and Writ of Praecipe. See a copy of said Notice and Writ attached hereto and incorporated herein by reference as **Exhibit "3"**.
10. On May 5, 2016 Petitioner filed and served upon Respondent a Motion to Dismiss. See a copy of said Motion attached hereto and incorporated herein as if fully rewritten, attached as **Exhibit "4"**.
11. On May 12 Petitioner filed and served upon Respondent a Writ of Mandamus. See a copy of said Writ attached hereto and incorporated herein by reference as **Exhibit "5"**.
12. On November 29, 2016 Petitioner filed and served upon Respondent an Acceptance for Oath of Office for Judges. See a copy of said Acceptance attached hereto and incorporated herein by reference as **Exhibit "6"**.
13. To this date there has been no response to any of the documents filed in case nos. 15CRS201075, 15CRS201076, and 15CRS201077 in the Mecklenburg County Superior Court.

## **CAVEAT**

"If you are determined to execute a man in any case, there is no occasion for a trial; the world yields no respect to courts that are merely organized to convict."

**Robert H. Jackson, United States Prosecutor at Nuremberg**

## **CONCLUSION**

1. Keith King is not a danger to himself nor to the society at large and any further restraint of liberty would be a crime against the people of this state and a dire threat to their freedom.
2. This is the first application for a Writ of Habeas Corpus and no application for a Writ of Habeas Corpus has previously been made by me in relation to these cases.
3. The court has no jurisdiction. The court has no subject matter jurisdiction. The Plaintiff has no standing. Without these essential elements, the court must cease its operations...in all matters. ***Steele Company v. Citizens for a Better Environment* 523 U. S. 83, 89 (1998).**, ***U.S. v. Cotton***
4. The law requires PROOF OF JURISDICTION to appear on the record of the administrative agency and all administrative requirement of F.R.C.P 12(b)(1), 12(h)(3) and 12(b)(6).
5. Mecklenburg County and City of Charlotte public officials involved in these cases are trained, educated, paid and sworn to know the law. Wherefore I see no excuse for their unlawful conduct.
6. Keith King requires the names, nationalities, job descriptions, bond information, CUSIP numbers for bonds, the underwriters' address and subpoena addresses of each and every participant from policy maker and police (policy enforcers) to jailers.
7. All citations, charges, or complaints charging or accusing Keith King with some offense or alleged crime, with supporting affidavits and indictments establishing Subject Matter Jurisdiction over him. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him and the Nature and Cause thereof.
8. All information or indictments, signed or unsigned, by any prosecutor which charged or accused Keith King of some offense or alleged crime with proof of enactment dates and enabling clauses for all named offenses with Title 42 U.S.C. § 1983, Title 28 U.S.C. § 636, Civil Claim 60(b), and Title 46 U.S.C. § 781.
9. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may

decide without delay on the lawfulness of his detention and order his release if the detention is not lawful, because of non-disclosure of the requirements of the prosecutor to establish subject matter jurisdiction, other than an unsubstantiated statement.

10. All warrants and summons that form the basis for the restraint and commitment of Keith King, with evidence of subject matter jurisdiction over Keith King, including the laws and enacting clauses for the offense(s) alleged.
11. All affidavits in support of any commitment papers ordering Keith King committed to jail.
12. Copies of all Constitutional Laws, which the executive, or judicial employee or officer relied upon to accuse Keith King, and thereby detain Keith King, and restrain Keith King from my liberty.

## **RELIEF AND REMEDY DEMANDED**

**Demand is hereby made for the U.S. District Court of Delaware to issue the Writ of Habeas Corpus:**

Wherefore, Keith King Demands that a Writ of Habeas Corpus be granted Instantly and issued to inquire into the restraint upon his liberty. The Writ being directed to the said Kyle Payne, Mecklenburg County assistant district attorney prosecuting said cases, commanding him to bring any and all evidence and documentation before the Court at the time and place therein to be specified; to provide a written answer with return thereof as to why the said Keith King is restrained of liberty and should not be released; to the end that upon said execution of said Writ that the complete discharge from custody will be effected and the said Keith King may be properly restored to his liberty.

1. Kyle Payne, prosecuting attorney, police officer, harmed party(ies), or other executive officers, who charged Keith King with an offense that resulted in his detainment, to provide the name, and the enacting clause, for all alleged offenses, and current substantiated statements of accusations.
2. Provide the court with the contract which Keith King purportedly violated, with Subject Matter Jurisdiction over him, that resulted in his detainment, other than a signed statement of Keith King with non-disclosure.

3. Sanctions for any party to be held responsible for unnecessary delay in hearing this matter and furthermore, time and costs related to this action pursuant to North Carolina General Statute 3 § 17 – 10. If any judge authorized by this Chapter to grant writs of habeas corpus refuses to grant such writ when legally applied for, every such judge shall forfeit to the party aggrieved two thousand five hundred dollars (\$2,500).


4. Sanctions for any party(ies) to be held responsible who has attempted to defile the court by submitting documents which are inadmissible and unverified in these cases purporting to be evidence knowing they cannot be called to the stand to question/answer.

5. I am not an expert in the law. However, I do know right from wrong. If there is any human being damaged by any statements herein, if s/he will inform me by facts, I will sincerely make every effort to amend my ways. I hereby and herein reserve the right to amend and make amendment to this document as necessary in order that the truth may be ascertained and proceedings justly determined. If the parties given notice by means of this document have information that would controvert and overcome this Affidavit, please advise me IN WRITTEN AFFIDAVIT FORM within three (3) days from receipt hereof; providing me with your counter-affidavit, proving with particularity by stating all requisite actual evidentiary facts and all requisite actual laws, and not merely the ultimate finding of facts and conclusions of law. Provide therein that this Affidavit is substantially and materially false; sufficiently to change materially my status and factual declarations. Your silence stands as consent to, and tacit approval of, the factual declarations herein being established as fact, as a matter of law.

**Reserving ALL Natural God-Given Unalienable Birthrights,  
Waiving None, Ever.**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 USC §1746.

Signed on this the 15<sup>th</sup> day of the sixth month in the year of our Lord and Savior two thousand seventeen.

  
\_\_\_\_\_  
Keith King



**U.S. District Court  
Delaware Division**

IN RE: Keith King Propria Persona  
ex rel,

Petitioner,

v.

Kyle Payne,  
Mecklenburg County.

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Case No. \_\_\_\_\_

**ORDER GRANTING WRIT OF HABEAS CORPUS**

Upon reading the petition filed by Keith King, duly signed and verified by Keith King, whereby it appears that the said Keith King is illegally and unlawfully restrained of his liberty by Irwin Carmichael, Mecklenburg County Sheriff upon the direction of Prosecuting Attorney Kyle Payne, and stating wherein the alleged illegality and unlawfulness exists, from which it appears that a Writ of Habeas Corpus ought to issue.

**IT IS THEREFORE ORDERED** that a Writ of Habeas Corpus be issued by the county clerk under seal of the U.S. District Court, Delaware Division, directed to the said Irwin Carmichael, Mecklenburg County Sheriff, as stated above, commanding him to have the body of Keith King before the U.S. District Court, Delaware Division, on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_\_\_ M, of that day, to do and receive what shall then and there be considered concerning the said Keith King and have proper return, according to law, endorsed upon the writ.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
JUDGE PRESIDING

**UNITED STATES DISTRICT COURT  
District of Delaware**

EX PARTE,

Keith King,

V.

MECKLENBURG COUNTY SHERIFF,  
Irwin Carmichael.

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New Castle COUNTY

Case No. \_\_\_\_\_

**WRIT OF HABEAS CORPUS**

To Irwin Carmichael, MECKLENBURG COUNTY Sheriff,

Greetings:

You are commanded to have the body of Keith King, alleged to be restrained by you, by whatsoever name, the said Keith King shall be called or charged, before the United States District Court, Delaware Division, at the courthouse in said county on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, at \_\_\_\_\_ o'clock \_\_\_\_ M., and state in writing under oath the truth or not that the said Keith King is restrained of liberty by you and what authority or for what cause he is restrained on the return of the writ hereof and attach a copy of the writ or warrant, if any, by virtue of which you hold Keith King in custody; And hereof you are not to fail under the heavy penalties denounced by law against those who disobey this Writ and to submit to and receive all those things which shall then and there be considered concerning the said Keith King.

Witness, \_\_\_\_\_, Clerk of the U.S. District Court, Delaware Division and the seal thereof hereto affixed at New Castle County, DELAWARE, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(seal)\_\_\_\_\_

\_\_\_\_\_ New Castle County Clerk

by \_\_\_\_\_ Deputy